

**Mandates of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the right to food and the Special Rapporteur on the human rights to safe drinking water and sanitation**

REFERENCE:  
AL IND 12/2019

27 May 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the right to food and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 37/8, 32/8 and 33/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **recent reports of the impact of the work on the Northeastern Frontier Railway on the water supply of several villages in the state of Manipur, India.**

According to the information received:

The work on the Northeastern Frontier Railway, ongoing since 2009 in the state of Manipur, involves construction of tunnels and bridges across mountainous regions. The high demand for water for cement mixing as part of this construction work has severely impacted access to water sources for the local rural communities. In particular, the construction of tunnel No. TT 12, located between Tairenpokpi and Sheibung villages, has led to diversion of the water sources of several thousand people living in the nearby villages of Tairenpokpi, Atongkhuman, Sairemkhul, and PhayengChingtaba. The construction project is scheduled to continue until 2020.

The villages were previously supplied with water from the Ningthourok and Yumbunglok streams through pipelines which passed through Sheibung village. The water was stored at a reservoir which was initiated under the Accelerated Rural Water Supply Programme at the Tairenpokpi village by the Public Health and Engineering Department of the Government of Manipur. According to information received, the water which filled up this reservoir which is the only water source for surrounding villages, has been diverted for use in the Northeastern Frontier Railway construction work. The water supply was periodically threatened, starting in March 2017. The reservoir has been entirely out of use, and unmaintained since February 2018.

Since then, inhabitants of the four surrounding villages have limited access to water for domestic use. Two ponds with little water, which is not safe for drinking or domestic use, and three wells that frequently dry up are the only water sources

in Tairenpokpi village. Villagers collect water from a nearby village, Phayeng Khunao. Some villagers buy water from local private tankers at the cost of 300 INR (approximately 4 USD) for 500 liters of water. This cost is high relative to local wages, and these water supplies tend to last only three to four days per week for a household of five members.

Additionally, polluted water from the construction sites has allegedly been dumped into local streams which pass through agricultural land. Surrounding fields are covered in polluted water, and cement particles have accumulated over 200 hectares of paddy fields. Cement has collected up to one foot deep in dumping locations. As a result, agricultural production in the area has declined, threatening both the food security and livelihood of local inhabitants. The region, known for its production of wine, is seeing its exports threatened. The amount of fish and aquatic fauna found in the streams are also in decline, which threatens the survival of local indigenous populations who rely on these traditional food sources as their staple food.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the reports that your Excellency's Government is failing to meet its international human rights obligations to protect the human rights of the indigenous peoples and local communities living near the Northeastern Frontier Railway. Serious concern is expressed with regards to the impact that the construction of Northeastern Frontier Railway has on the accessibility of safe drinking water and sanitation for local populations caused by the diversion of established local water sources. We express additional concern that the diversion of drinking water source disproportionately impacts women and children living in the rural villages who are forced to travel between three and four kilometres a day to collect water for daily use. Further concern is raised by the impact of particles and wastes on the local environment, as well as its detrimental effects on local agriculture, which in turn threaten the human rights to adequate food, and the ability of local population to engage in crucial traditional work.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please highlight the steps that your Excellency's Government has taken, or is considering to take, to guarantee that water for personal and domestic usages are given priority over other industrial uses such as for the construction of the Northeastern Frontier Railway.

3. Please provide information on what measures and steps are taken in order to rehabilitate and recover the water reservoir, which is currently non-operational.
4. Please provide information on alternative measures to provide water for domestic use to the population while the main source of water – the reservoir – is non-operational.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

David R. Boyd

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Hilal Elver

Special Rapporteur on the right to food

Léo Heller

Special Rapporteur on the human rights to safe drinking water and sanitation

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we wish draw your Excellency's Government's attention to Article 25 of the Universal Declaration of Human Rights, which recognizes the right of everyone "to a standard of living adequate for the health and well-being of himself and of his family, including food." Furthermore article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – which India acceded to on 10 April 1979 – stipulates that States "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions," and requires them to "take appropriate steps to ensure the realization of this right."

We recall the explicit recognition of the human rights to safe drinking water by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of ICESCR. In its General Comment No. 15, the Committee on Economic, Social and Cultural Rights clarified that the human right to water means that everyone is entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. Furthermore, the UN General Assembly (resolution 70/169) and the Human Rights Council (resolution 33/10) recognized that water and sanitation are two distinct but interrelated human rights. In particular, we recall explicit recognition that "the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living".

The Committee on Economic, Social and Cultural Rights, which monitors the implementation of the Covenant, has defined the core content of the right to food in its General Comment No. 12, along with the corresponding obligations of States to respect, protect and fulfill the right to food both on their national territory and outside the national territory. The Committee considers that the core content of the right to adequate food implies, inter alia, availability of food which refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand, and accessibility of food which encompasses both economic and physical accessibility. The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to

adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly.

Finally, we wish to refer to the Framework Principles on human rights and the environment of the Special Rapporteur on human rights and the environment (A/HRC/37/59, annex), which summarize the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. Namely, Framework Principle 1 provides that States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights. In the same vein, Principle 2 reiterates that States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment. Principle 8 reaffirms that, to avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights. The assessment requires meaningful participation of the public done in a manner that does not discriminate anyone. Principle 14 require States to ensure that they take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.